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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE DISTRICT OF MARYLAND  
 3 NANCY J. WHALEN, \*  
 4 Plaintiff \*  
 5 vs. \* Case No.  
 6 DONALD L. TEMPER, et al, \* MJG-02CU-191  
 7 Defendants \*  
 8 -----  
 9 The deposition of GAIL M. CHICKERSKY was  
 10 taken on Thursday, the 3rd day of October, 2002,  
 11 commencing at 10:10 a.m., at the Law Offices of  
 12 Mudd, Harrison & Burch, 105 West Chesapeake Avenue,  
 13 Suite 3090, Towson, Maryland, before Dianna C.  
 14 Kilgallen, RPR, Notary Public.

15 -----  
 16  
 17  
 18  
 19  
 20 Reported by:  
 21 Dianna C. Kilgallen, RPR

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4 By MR. BEKMAN:	04
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**PLAINTIFF'S  
EXHIBIT**

*A*

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1 APPEARANCES:  
 2 PAUL BEKMAN, ESQUIRE  
 3 On behalf of the Plaintiff.  
 4 DOUGLAS BISER, ESQUIRE  
 5 On behalf of the Defendant,  
 6 NuCar Connection.  
 7 RUSSELL FIELDS, ESQUIRE  
 8 On behalf of the Defendant,  
 9 Donald L. Temper.  
 10 DAVID F. RYDER, ESQUIRE  
 11 On behalf of the Defendant,  
 12 Barbara Dunn.  
 13 -----  
 14 Present:  
 15 Barbara Dunn, Party Defendant.

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1 GAIL M. CHICKERSKY  
 2 the Deponent, called for oral examination by the  
 3 Plaintiff, being first duly sworn to tell the  
 4 truth, the whole truth, and nothing but the truth,  
 5 testified as follows:  
 6 EXAMINATION BY MR. BEKMAN  
 7 Q Would you give us your full name, please?  
 8 A Gail Elizabeth McClary Chickersky.  
 9 Q Mrs. Chickersky, give us your current  
 10 address, please.  
 11 A 29 Georgian Circle, Christine Manor,  
 12 Newark, Delaware 11711.  
 13 Q Ms. Chickersky, have you ever had your  
 14 deposition taken before?  
 15 A Yes, sir, I have.  
 16 Q So you know a little bit about what is  
 17 going to happen today.  
 18 A Yes, sir.  
 19 Q I'm going to be asking you some questions.  
 20 Other counsel may have questions for you. It is  
 21 important for you to understand the questions that

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1 Powell. Arlene was working more with Mr. Capron  
 2 on analysis and auditing.

3 Q So she had a new title?

4 A She did.

5 Q Were you still her supervisor?

6 A That's correct.

7 Q When she assumed her new title, were you  
 8 her direct supervisor?

9 A Mr. Capron and I shared direction.

10 Q I want to ask you some questions about the  
 11 vehicle that Ms. Dunn was operating. According to  
 12 the information that we have, in 2000, in July of  
 13 2000 when this incident occurred, Ms. Dunn was  
 14 operating a Chevrolet Camaro, a 2000 Chevrolet  
 15 Camaro that was owned by NuCar Connection.

16 A Correct.

17 Q Is that your understanding?

18 A Yes, it is.

19 Q Would that be NuCar Connection, Inc. --

20 A Correct.

21 Q -- as the owner?

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1 Q Would, for example, the tag on the vehicle  
 2 say NuCar Connection?

3 A The license plate frame would probably say  
 4 NuCar Connection. There would definitely be a  
 5 Mylar identification on the back trunk deck lid or  
 6 pickup tailgate. There would also probably be a  
 7 front license plate that would identify the vehicle  
 8 as a NuCar vehicle.

9 Q So anyone who would be looking at that  
 10 vehicle would know this is a NuCar, NuCar, N-u, car  
 11 vehicle they would see on the highway?

12 MR. BISER: Objection as to what  
 13 some other person would know.

14 MR. BEKMAN: Let me rephrase the  
 15 question. It was poorly phrased.

16 Q (By Mr. Bekman) If an individual were to  
 17 look at the license plate, front or back, or the  
 18 logo that tells you where the vehicle may have come  
 19 from, they would see NuCar Connection?

20 A Yes, sir, they would.

21 Q As far as NuCar Connection was concerned,

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1 A Yes.

2 Q Tell me if you can, as best you can  
 3 recall, the circumstances under which someone such  
 4 as Ms. Dunn would be, in essence, given an  
 5 automobile to operate.

6 A We don't exactly call it given.

7 Q Okay. Permitted to use. How is that?

8 A That would be fine. We are in the  
 9 business of selling cars. It is in our best  
 10 interests to have vehicles available for test  
 11 drives. We also think that some of our top-level  
 12 people are excellent representations of our  
 13 company.

14 There are certain people who are given  
 15 permission to use a demonstrator under certain  
 16 stipulations and rules as part of their employment  
 17 package.

18 Q The purpose of permitting these more  
 19 high-level people, if you will, the ability to use  
 20 these vehicles was to help promote the dealership?

21 A It also promotes the product.

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1 they wanted to promote that fact to the public?

2 A Yes, sir.

3 Q What top-level employees were given that  
 4 privilege, if you will?

5 A Sales managers, business managers, myself,  
 6 Mr. Capron, Arlene, three service managers, three  
 7 parts managers, and a body shop manager, I believe,  
 8 and the owners.

9 Q Sure. In this particular case, it is the  
 10 year 2000 when this incident occurred and she was  
 11 driving a 2000 Camaro. Was there a practice or  
 12 procedure whereby certain types of vehicles were  
 13 given out? In other words, this was a rather new  
 14 vehicle.

15 A Demonstrators, by definition, are new  
 16 vehicles in our business. They are not titled.  
 17 They are on Certificates of Origin. The fleet is  
 18 mixed, the fleet being the fleet of demonstrators  
 19 is mixed so that a vehicle would be available for a  
 20 customer to drive so that our people are familiar  
 21 with the attributes of a range of product.

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1 In other words, Ms. Dunn wouldn't have  
 2 always been driving a Camaro. She might have been  
 3 driving a Mazda 626 prior to that, or a Chevrolet  
 4 pickup truck.

5 Q Was the frequency of the use changed every  
 6 5,000 miles, every 10,000 miles? How was that  
 7 done?

8 A You keep a demonstrator no more than 5,000  
 9 miles and no more than six months, whichever occurs  
 10 first. But it could be a much faster turn than  
 11 that, because every vehicle that is a demonstrator  
 12 is available for immediate sale.

13 Q So that, for example, if Ms. Dunn were out  
 14 with her Camaro, her 2000 Camaro, and it says it is  
 15 a NuCar and somebody sees the car and they like the  
 16 car and they come to the dealership and say I saw  
 17 this car out on the roadway, and do you have this  
 18 car, and that car happens to be available, that  
 19 demo could be sold to someone in the general  
 20 public?

21 A Not prior to coming back on to the lot,

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1 One would hope that you would not be afraid of  
 2 saying where you worked.

3 Q I got the picture. You are working for  
 4 NuCar. You are driving this nice new car.  
 5 Somebody looks at your car and says gee, that is a  
 6 nice car, what can you tell me about it, and they  
 7 could tell you about it?

8 A To a degree. I would certainly not field  
 9 a question like that. I would say I work for  
 10 NuCar and these are wonderful cars. May I hook you  
 11 up with a salesman so you can drive one?

12 Q You are kind of like a mini-salesperson  
 13 for NuCar hopefully?

14 A Whether or not I am in a vehicle or on a  
 15 skateboard, I would hope that would be true.

16 Q Were employees encouraged to do that?

17 A All employees are encouraged to do that.

18 Q It helps the business?

19 A All employees should be comfortable enough  
 20 with what they are doing, I don't care whether it  
 21 is a car dealership or grocery store, to say I work

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1 but yes.

2 Q Has that happened? Does that happen?

3 A Yes, sir.

4 Q Was that another reason why NuCar wanted  
 5 this to be available to the public to see?

6 A They are rolling billboards.

7 Q So they are advertisements and they are on  
 8 the road, and if they are on the road and people  
 9 see them, that is a benefit to NuCar?

10 A That would be our hope. The other  
 11 benefit to NuCar is that our employees are more  
 12 familiar with the product line that we are  
 13 representing.

14 Q How about somebody in her capacity where  
 15 she is, in essence, an assistant controller, does  
 16 that help her, too, as far as understanding the  
 17 product?

18 A I can't speak for Arlene. I always felt  
 19 that it helped me understand the product.

20 Q How did that help you as controller?

21 A Everyone knows a certain number of people.

1 at thus and so a place.

2 Q Particularly if you have a good product to  
 3 sell?

4 A Yes.

5 Q Okay. You mentioned earlier that --  
 6 before I get into that, was there ever any  
 7 consideration given to the employees who fit in  
 8 this category who had these demo vehicles of NuCar,  
 9 that by having a NuCar, N-u Car in their  
 10 possession, that if they were ever asked, for  
 11 example, to come into work, maybe even at an odd  
 12 time, that they would have no hesitation doing so,  
 13 because the car is there and available and it is a  
 14 benefit to the employer to have the employee be  
 15 available to come in to work?

16 A No. There was never any thought process  
 17 like that.

18 Q The vehicles themselves, let's take the  
 19 vehicle that Ms. Dunn was operating, would that be  
 20 insured by NuCar?

21 A Yes, sir.

1 Q She would not have to pay for insurance?  
 2 A No, sir.  
 3 Q The vehicle, what about repairs and  
 4 maintenance of the vehicle, taken care of by NuCar?  
 5 A Because these are brand new vehicles, we  
 6 would assume that any repairs would be a warranty  
 7 repair.  
 8 Q So they would be covered by warranty? If  
 9 there was anything wrong, NuCar would take care of  
 10 it?  
 11 A When they hit 3,000 miles, NuCar would pay  
 12 for an oil change and it was the expectation that  
 13 the driver would schedule that. Anything, any  
 14 damages caused by the driver are the responsibility  
 15 of the driver.  
 16 Q What about gas?  
 17 A Driver's responsibility.  
 18 Q Was there a gas tank available at NuCar?  
 19 A There is a gas tank physically operated  
 20 there. It is not available for fueling of demos.  
 21 Q So that was the responsibility of the

1 A Yes.  
 2 Q How was that handled?  
 3 A It was added and deducted through the  
 4 payroll system.  
 5 Q Tell me how that would work. Give me an  
 6 example how that would work with a vehicle such as  
 7 this.  
 8 A We would gross up a salary and then deduct  
 9 the same amount and apply it to the cost of floor  
 10 planning, in this case.  
 11 Q Explain to me, if you can just as an  
 12 example, the kind of numbers that we would be  
 13 talking about ballpark?  
 14 A About \$2,000 per year.  
 15 Q Was that broken down in any particular  
 16 way, that is the \$2,000?  
 17 A Weekly increments.  
 18 Q So if somebody were earning, and I'm just  
 19 going to take a ballpark figure, if somebody were  
 20 earning, let's say, \$40,000 a year and they had one  
 21 of these demos, would their salary then be deemed

1 individual?  
 2 A As I said, yes.  
 3 Q But they, that is the individual, did not  
 4 have to pay for putting on X amount of miles, like  
 5 say under a rental car agreement exists sometimes?  
 6 A That is correct.  
 7 Q How about if they wanted to get the car  
 8 washed or something of that nature, was it washed  
 9 at the dealership?  
 10 A There is a carwash available at that  
 11 dealership. If the employee wanted to take the  
 12 vehicle through, there would be no laborers  
 13 cleaning that vehicle. It rests with the driver  
 14 and that is the responsibility of the driver.  
 15 Q They wouldn't have to pay for the wash  
 16 itself?  
 17 A No, they would not.  
 18 Q Were the individuals who had these  
 19 vehicles required to report any additional monies  
 20 on their income tax return for the use of the  
 21 vehicle?

1 to be \$42,000 and you would deduct \$2,000 from the  
 2 salary to get it to 40?  
 3 A That is about the mechanism how it would  
 4 work, yes.  
 5 Q On their W-2 form, would that show on  
 6 their W-2 form?  
 7 A It would show earnings of 42 in that case,  
 8 yes.  
 9 Q Was a separate statement given to each  
 10 employee at the appropriate time as to what their  
 11 quote, unquote, car expense was?  
 12 A It was on their paycheck every week.  
 13 Q So the paycheck would be broken out in  
 14 such a way that it would reflect a car expense?  
 15 A Yes.  
 16 MR. BISER: You say a car expense.  
 17 It would be shown to them as income. The expense  
 18 to the dealership is not shown on the W-2 or  
 19 statement?  
 20 MR. BEKMAN: Right.  
 21 MR. BISER: Is that right, Gail?